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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/531,454	04/14/2005	Rene Derie	270344US0PCT	6889

22850 7590 09/26/2006

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EXAMINER	
KRECK, JOHN J	

ART UNIT	PAPER NUMBER
3673	

DATE MAILED: 09/26/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/531,454	DERIE ET AL.	
	Examiner	Art Unit	
	John Kreck	3673	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *17 July 2006*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-15* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-15* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

The amendment dated 7/17/06has been entered.

Claims 1-15 are pending.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

1. Claims 1-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mainwaring in view of Forrester (U.S. Patent number 5,536,899)N.B. this is a different Forrester reference than previously applied.

Mainwaring (e.g. col. 6, lines 24-35) teaches a process for treatment of sludge comprising foaming under controlled conditions; and drying the foam as called for in claim 1.

Mainwaring lacks the phosphatizing,

Forrester teaches a similar process, which includes phosphatizing, to immobilize heavy metals.

It would have been obvious to one of ordinary skill in the art at the time of the invention to have modified the Mainwaring process to have included phosphatizing as called for in claim 1.

Mainwaring lacks the specific foam densities.

One of ordinary skill in the art would have known that foam density is largely a process design variable: the density of the foam directly relates to the efficiency of separation of the foam from the bath. One of ordinary skill in the art would have found the claimed densities to be obvious through routine experimentation.

With regards to claims 4 and 11: Forrester (e.g. table in col. 5) discloses amounts of phosphoric acid in the claimed range.

Mainwaring fails to explicitly disclose drying "on the ground". Official Notice is taken of the fact that "drying on the ground" is a well known method of drying, and has the advantage of being inexpensive. It would have been obvious to one of ordinary skill in the art at the time of the invention to have modified the Mainwaring process to have included drying on the ground as called for in claim 5.

Mainwaring also discloses drying to a dry matter content greater than 65% as called for in claim 6 (see, e.g. col. 8, line 30---"dry powder" is deemed to anticipate 65% dry.)

With regards to claim 7:

Mainwaring lacks the drying in a composting tunnel. By applicant's own admission, drying in such tunnels is well known. One of ordinary skill in the art would have known that drying in composting tunnels would have been just as effective as

other drying methods, thus it would have been obvious to one of ordinary skill in the art at the time of the invention to have modified the processes to have included drying in a composting tunnel as called for in claim 7.

With regards to claims 12 and 13: see, e.g. col. 8, line 30 of Mainwaring---"dry powder" is deemed to anticipate dry matter content in those ranges.)

With regards to claims 14 and 15: Mainwaring lacks the specific number of drying days, however one of ordinary skill in the art would have been aware that drying is a highly variable process, dependent on such factors as weather conditions. Drying for 2-7 or 4-6 days would have been obvious, since the drying time is a process variable.

2. Claims 8-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mainwaring and Forrester and further in view of Derie (U.S. Patent number 6,132,355).

Mainwaring lacks the calcining, but discloses that the dried foam is to be disposed of; while remaining silent as to the manner of disposal.

Derie teaches a similar process in which a heavy metal containing product is calcined.

It would have been obvious to one of ordinary skill in the art at the time of the invention to have modified the Mainwaring process to have included calcining, in order to produce an inert mortar.

Response to Arguments

3. Applicant's arguments with respect to claims 1-15 have been considered but are moot in view of the new ground(s) of rejection.

4. It is noted that applicant has not disputed—and thus apparently agrees with--examiner's contentions concerning the Mainwaring and Derie references.

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Kreck whose telephone number is 571-272-7042. The examiner can normally be reached on Mon-Thurs 530am-2pm; Fri: telework.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patricia Engle can be reached on 571-272-6660. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

John Kreck
Primary Examiner
Art Unit 3673

20 September 2006